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October 1, 2015

Hon. Shira A. Scheindlin
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
40 Foley Square, Room 1620
New York, NY 10007

Re: *In re M/V MSC FLAMINIA* – Master File: SDNY No. 12 Civ. 8892 (SAS)

Dear Judge Scheindlin,

We are the attorneys for the Plaintiffs Conti 11. Container Schiffahrts-GMBH & Co. KG MSC “FLAMINIA” (“Conti”) and NSB Niederelbe Schiffahrtsgesellschaft MBH & Co. KG (“NSB”), who are the owner and operator of the M/V MSC FLAMINIA in the above-referenced action. We submit this joint status letter on behalf of all parties

Current Document Discovery and Depositions

As previously reported, the parties continue making additional requests and producing additional documents. In particular, Chemtura recently produced in excess of 300,000 pages of documents in response to Deltech’s December 2013 demands. Currently, Deltech and Chemtura disagree on whether this production has complied with Fed R Civ P 34. If left unresolved, Deltech anticipates filing a pre-motion letter request with the Court to address any open issues.

So far, a total of 49 witnesses have been deposed in the US and abroad. Additional depositions had been scheduled over the summer, but were adjourned pending additional document production. As noted above, thousands of pages of documents have since been produced.

Presently, about 23 depositions have already been scheduled, or are in the process of being scheduled, over the course of this month and the next, i.e., October and November. The majority of them will be conducted out of the state and some will be out of the country. Another 10 depositions are expected to be noticed in the near future.

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Expert Discovery

Since our last report, the samples identified and selected in Denmark for further testing have been provided to the mutually agreed upon laboratory. The metallurgical testing has been carried out and appears to be complete. A report from the lab is forthcoming to those experts involved.

The laboratory has also completed the testing of the smoke detection tubing; X-raying of certain cargo hold CO2 system components; and the visual and microscopic inspection of other cargo hold CO2 system and smoke detections components. In addition, the laboratory has conducted screening tests on a large selection of debris samples.

A protocol for further testing has been circulated and is being discussed by the various experts. It is anticipated that other cargo hold CO2 and smoke detection system components will be subjected to a variety of tests. Chemical testing will be conducted on certain components of the smoke detection unit. And, there will be further chemical testing of certain debris samples.

The experts plan to reconvene in Denmark on November 2, 2015. Subject to the availability of the laboratory, the additional laboratory work described above may take as many as 3 months to complete.

Settlement Conference

As ordered, the parties appeared before Magistrate Judge Pitman on September 28, 2015 to discuss settlement. Representatives of the Plaintiffs also attended. During the course of the conference, it was agreed that this conference would be the first in a series of conferences. As fact discovery has not yet closed and expert discovery is ongoing, certain parties will reconvene before the Court in the first week of January 2016 to discuss any further factual developments and the scheduling of an additional conference regarding the allocation of shares of a potential settlement.

Summary

As before, the parties continue to cooperate to produce requested documents and information. Hundreds of thousands of pages of documents have already been exchanged, and additional documents are produced on a fairly regular basis.

In terms of depositions, a total of 49 depositions have been conducted so far. Additional depositions are in the process of being conducted and scheduled.

Testing of the various samples continues at a lab in Denmark.

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The parties have appeared before Magistrate Judge Pitman to discuss settlement and have agreed to a continue discussions in light of ongoing discovery.

If there are any questions, please do not hesitate to contact us. Otherwise, we thank you in advance for your consideration and continued assistance.

Respectfully submitted,

MONTGOMERY MCCRACKEN
WALKER & RHOADS, LLP

/s/ Timothy Semenoro

Eugene J. O'Connor
Timothy Semenoro

CC by ECF and E-mail to all counsel of record